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21 UNITED STATES OF AMERICA

22 UNITED STATES DISTRICT COURT
23 FOR THE CENTRAL DISTRICT OF CALIFORNIA

24 WESTERN DIVISION

25 UNITED STATES OF AMERICA,) Case No. CR 09-978 (A)-JFW
26)
27 Plaintiff,) STATUS OF THE CASE
28)
29 v.) Trial Date: February 23, 2010
30) Trial Time: 8:30 a.m.
31 MARIA NELA MORENO,)
32)
33 Defendant.)

34 Plaintiff United States of America, by and through its
35 attorney of record, the United States Attorney for the Central
36 District of California, respectfully notifies this Court of the
37 filing of a first superseding indictment in the above-referenced
38 case.

39 This status is based upon the first superseding indictment,
40 a courtesy copy of which is attached as Exhibit A, the attached

1 Memorandum of Points and Authorities, the declaration of Jonathan
2 T. Baum, and the files and records in this case.

3 DATED: February 12, 2010

4 Respectfully submitted,

5 GEORGE C. CARDONA
6 Acting United States Attorney

7 CHRISTINE C. EWELL
8 Assistant United States Attorney
Chief, Criminal Division

9 /s/
10 JONATHAN T. BAUM
Trial Attorney, Fraud Section
United States Department of Justice

11 Attorneys for Plaintiff
12 United States of America

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Defendants Ajibola Sadiqr ("Sadqir") and Maria Nela Moreno
3 ("Moreno") (collectively, "defendants") are charged with
4 conspiracy to commit health care fraud, in violation of 18 U.S.C.
5 § 1349; and health care fraud, in violation of 18 U.S.C. §§ 1347
6 and 2(b). On January 27, 2010, Sadiqr pleaded guilty to count
7 one of the indictment, and is scheduled for sentencing on April
8 12, 2010. Currently, Moreno is scheduled for trial on February
9 23, 2010.

10 On February 12, 2010, a federal grand jury returned a first
11 superseding indictment in this case. The first superseding
12 indictment is identical to the initial indictment except that it
13 corrects the claim submission dates alleged in counts five and
14 six from October 14, 2008, to January 28, 2008. (Declaration
15 ("Decl.") of Jonathan Baum, ¶ 3(a); Exhibit A.) The first
16 superseding indictment also contains minor stylistic changes to
17 the caption of the indictment and paragraphs 3, 9, and 17(a).
18 (Baum Decl., ¶ 3b.) As the first superseding indictment is
19 nearly identical to the initial indictment, the United States
20 submits that the filing of the first superseding indictment does
21 not require a continuation of defendant Moreno's February 23,
22 2010, trial date. See United States v. Rojas-Contreras, 474 U.S.
23 231, 233, 236-37 (1985) (Speedy Trial Act "does not require that
24 the 30-day trial preparation period be restarted upon the filing
25 of a superseding indictment"; defendant was not prejudiced by
26 superseding indictment filed four days before trial which

1 corrected date of defendant's prior conviction to December 7 from
2 December 17); United States v. Flores-Sanchez, 477 F.3d 1089,
3 1091-92 (9th Cir. 2007) (commencement of defendant's trial one
4 day after arraignment on superseding indictment did not violate
5 defendant's Speedy Trial rights); United States v. Wallace, 800
6 F.2d 1509 (9th Cir. 1986) ("The Speedy Trial Act . . . does not
7 require that the 30-day trial preparation period begin anew up
8 the filing of a substantially similar superseding indictment.")

9 Respectfully submitted,

10 GEORGE C. CARDONA
11 Acting United States Attorney

12 CHRISTINE C. EWELL
13 Assistant United States Attorney
Chief, Criminal Division

14 _____ /s/
15 JONATHAN T. BAUM
16 Trial Attorney, Fraud Section
United States Department of Justice

17 Attorneys for Plaintiff
United States of America

DECLARATION OF JONATHAN T. BAUM

I, Jonathan T. Baum, declare as follows:

1. I am a Trial Attorney with the United States Department of Justice, and I am assigned to the prosecution of United States v. Maria Nela Moreno, CR 09-978(A)-JFW.

2. On February 12, 2010, a federal grand jury returned a first superseding indictment in the above-referenced case, a courtesy copy of which is attached as Exhibit A.

9 3. The United States sought the first superseding
10 indictment for the following reasons:

a. To correct the claim submission dates in counts five and six from October 14, 2008, to January 28, 2008.

13 b. The United States also made minor stylistic
14 changes to the caption of the indictment, and paragraphs 3, 9,
15 and 17(a). Other than these changes, the first superseding
16 indictment is identical to the initial indictment.

17 I declare under penalty of perjury that the foregoing is
18 true and correct to the best of my knowledge and belief, and that
19 this declaration is executed in Los Angeles, California, this
20 12th day of February 2010.

/s/ JONATHAN T. BAUM